

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

FREDERICK MAURICE ASHMORE,)	
)	
Petitioner,)	
)	
v.)	CASE NO. 3:21-CV-845-WHA-KFP
)	(WO)
JAY JONES, et al.,)	
)	
Respondents.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

Around December 20, 2021, Petitioner Frederick Maurice Ashmore, an inmate at the Lee County Detention Center, filed a petition with this Court challenging his Alabama convictions. Doc. 1. Ashmore neither submitted the \$5.00 filing fee nor applied to proceed in forma pauperis (“IFP”). On January 3, 2022, this Court entered an Order directing Ashmore to either submit the \$5.00 filing fee or a properly completed IFP application by January 25, 2022. Doc. 2. The Court advised Ashmore that his IFP application must be accompanied by a prison account statement from the account clerk at the Lee County Detention Center with the account clerk’s certified statement of the balance in Ashmore’s prison account when he filed his petition. *Id.* at 1. The Court specifically cautioned Ashmore that his failure to comply with its Order would result in a recommendation that his case be dismissed. *Id.*

The deadline for Ashmore to comply with the Court’s January 3 Order has passed without Ashmore submitting either the \$5.00 filing fee or a properly completed IFP application accompanied by his prison account statement. Consequently, the Court

concludes that dismissal of this action without prejudice is appropriate. *See Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989) (holding that, generally, where a litigant has been forewarned, dismissal for failure to obey a court order is not an abuse of discretion).

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be DISMISSED without prejudice because Ashmore has failed to comply with the Court's order that he either submit the \$5.00 filing fee or a properly completed IFP application.

It is further

ORDERED that, on or before **March 3, 2022**, the parties may file objections to this Recommendation. A party must specifically identify the factual findings and legal conclusions in the Recommendation to which the objection is made. Frivolous, conclusive, or general objections to the Recommendation will not be considered. Failure to file written objections to the Magistrate Judge's findings and recommendations in accordance with the provisions of 28 U.S.C. § 636(b)(1) will bar a party from a de novo determination by the District Court of legal and factual issues covered in the Recommendation and waives the right of the party to challenge on appeal the District Court's order based on unobjected-to factual and legal conclusions accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. 11th Cir. R. 3-1; *see Resol. Tr. Corp. v. Hallmark Builders, Inc.*, 996 F.2d 1144, 1149 (11th Cir. 1993); *Henley v. Johnson*, 885 F.2d 790, 794 (11th Cir. 1989).

DONE this 17th day of February, 2022.

/s/ Kelly Fitzgerald Pate

KELLY FITZGERALD PATE

UNITED STATES MAGISTRATE JUDGE